

AMENDED IN SENATE AUGUST 22, 2000

AMENDED IN SENATE AUGUST 8, 2000

AMENDED IN ASSEMBLY MAY 23, 2000

AMENDED IN ASSEMBLY MAY 8, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2805

Introduced by Assembly Member Papan

February 28, 2000

An act to add and repeal Section 146.1 of the Financial Code, *to amend Sections 16522 and 16612 of the Government Code, and to amend Section 44559.1 of the Health and Safety Code*, relating to financial institutions.

LEGISLATIVE COUNSEL'S DIGEST

AB 2805, as amended, Papan. Financial institutions.

~~Existing law, the~~

The Banking Law; provides for the regulation of banks in California and sets forth various definitions of terms relevant to those regulations.

This bill would define, until November 30, 2004, the term “small bank” for purposes of the Banking Law.

This bill would require the California Research Bureau to provide an annual report, until November 30, 2004, to the Legislature addressing the disposition of all state funds, the names of financial institutions receiving state funds, including the geographic location and use of the funds, and the

percentage of funds remaining in California and invested out of state.

This bill would also require the California Research Bureau to complete a study by December 31, 2001, examining, among other things, the present geographical and socioeconomic disposition of California's state funds, the efforts made by state agencies in investing state funds to ensure the funds receive the best rates, and the feasibility and social benefits of mandating that a set percentage of California's public funds be used in California.

Existing law requires that banks, savings and loan associations, and credit unions deposit specified securities with the Treasurer in order to be eligible to receive and retain demand or time deposits of state funds.

This bill would add specified letters of credit issued by the Federal Home Loan Bank of San Francisco to the list of securities that may be received as security for demand and time deposits of state funds.

Existing law establishes the Capital Access Loan Program for the purpose of improving small businesses' access to capital from financial institutions in order to meet environmental standards imposed on businesses. Existing law defines various terms relevant to the program.

This bill would expand the definition of "financial institution" for purposes of the program.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 146.1 is added to the Financial
2 Code, to read:

3 146.1. "Small bank" means a bank that, as of
4 December 31 of either of the prior two calendar years,
5 had total assets of less than two hundred fifty million
6 dollars (\$250,000,000) and was independent.

7 This section shall become inoperative on November 30,
8 2004, and as of January 1, 2005, is repealed, unless a later
9 enacted statute, that is enacted before January 1, 2005,

1 deletes or extends the dates on which it becomes
2 inoperative and is repealed.

3 SEC. 2. The California Research Bureau shall provide
4 an annual report, until November 30, 2004, to the
5 Legislature addressing the following:

6 (a) The disposition of all state funds.

7 (b) The names of financial institutions receiving state
8 funds, and at what rates, with specific care being given to
9 the location and disposition of the funds.

10 (c) The geographic location and use of the funds.

11 (d) The percentage of funds remaining in California
12 and the percentage of funds invested out of state and out
13 of the country.

14 SEC. 3. The California Research Bureau shall
15 complete, by December 31, 2001, a study examining the
16 following:

17 (a) The present geographic and socioeconomic
18 disposition of California's state funds.

19 (b) The efforts made by state agencies in investing
20 state funds to ensure the funds receive the best rates
21 while satisfying other socially important goals, including
22 keeping California's public funds working for
23 Californians, and ensuring that a significant portion of
24 publicly invested funds reach California's local
25 communities.

26 (c) Additional efforts that can be made to keep
27 California funds working for Californians while
28 practicing prudent investment policies.

29 (d) The feasibility and social benefits of the following:

30 (1) Requiring the state to follow guidelines similar to
31 the federal Community Reinvestment Act in its
32 investment policies.

33 (2) Allocating funds for specific investment purposes.

34 (3) Mandating that a set percentage of California's
35 public funds be used in California.

36 (4) Identifying impediments, if any, to community
37 banks' receipt of public moneys, such as those from
38 pooled money investment accounts.

(5) Creating a separate program for pooling deposits in California's community financial institutions to ensure that more public funds are used at the local level.

SEC. 4. Section 16522 of the Government Code is amended to read:

16522. The following securities may be received as security for demand and time deposits:

(a) Bonds, notes, or other obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, including the guaranteed portions of small business administration loans, so long as ~~such~~ *those* loans are obligations for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Notes or bonds or any obligations of a local public agency (as defined in the United States Housing Act of 1949) or any obligations of a public housing agency (as defined in the United States Housing Act of 1937) for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Bonds of this state or of any county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district, water district, water conservation district or irrigation district within this state, and, in addition, revenue or tax anticipation notes, and revenue bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by this state, or such local agency or district, or by a department, board, agency, or authority thereof.

(d) Registered warrants of this state.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by the United States Postal Service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of

1 1933, as amended, consolidated obligations of the Federal
2 Home Loan Banks established under the Federal Home
3 Loan Bank Act, bonds, debentures and other obligations
4 of the Federal National Mortgage Association and of the
5 Government National Mortgage Association established
6 under the National Housing Act as amended, in the bonds
7 of any federal home loan bank established under said act,
8 bonds, debentures, and other obligations of the Federal
9 Home Loan Mortgage Corporation established under the
10 Emergency Home Finance Act of 1970, and in bonds,
11 notes, and other obligations issued by the Tennessee
12 Valley Authority under the Tennessee Valley Authority
13 Act, as amended.

14 (f) Bonds and notes of the California Housing Finance
15 Agency issued pursuant to Chapter 7 (commencing with
16 Section 41700) of Part 3 of Division 31 of the Health and
17 Safety Code.

18 (g) Promissory notes secured by first mortgages and
19 first trust deeds upon residential real property located in
20 California, provided that:

21 (1) Notwithstanding Section 16521, the promissory
22 notes shall at all times be in an amount in value at least 50
23 percent in excess of the amount deposited with the bank;

24 (2) The Treasurer issues regulations, establishes
25 procedures for determining the value of the promissory
26 notes and develops standards necessary to protect the
27 security of the deposits so collateralized;

28 (3) The depository may exercise, enforce, or waive any
29 right or power granted to it by promissory note,
30 mortgage, or deed of trust; and

31 (4) The following may not be used as security for
32 deposits:

33 (i) Any promissory note on which any payment is
34 more than 90 days past due,

35 (ii) Any promissory note secured by a mortgage or
36 deed of trust as to which there is a lien prior to the
37 mortgage or deed of trust, or

38 (iii) Any promissory note secured by a mortgage or
39 deed of trust as to which a notice of default has been
40 recorded pursuant to Section 2924 of the Civil Code or an

1 action has been commenced pursuant to Section 725a of
2 the Code of Civil Procedure.

3 (h) Bonds issued by the State of Israel.

4 (i) Obligations issued, assumed, or guaranteed by the
5 International Bank for Reconstruction and
6 Development, the Inter-American Development Bank,
7 the Asian Development Bank, the African Development
8 Bank, the International Finance Corporation, or the
9 Government Development Bank of Puerto Rico.

10 (j) Any municipal securities, as defined by Section
11 3(a)(29) of the Securities Exchange Act of June 6, 1934,
12 (15 U.S.C. 78, as amended), which are issued by this state
13 or any local agency thereof.

14 (k) *Letters of credit issued by the Federal Home Loan*
15 *Bank of San Francisco, which shall be in the form and shall*
16 *contain provisions as the Treasurer may prescribe, and*
17 *shall include the following terms:*

18 (1) *The Treasurer shall be the beneficiary of the letter*
19 *of credit.*

20 (2) *The letter of credit shall be clean and irrevocable,*
21 *and shall provide that the Treasurer may draw upon it up*
22 *to the total amount in the event of the failure of the bank*
23 *or if the bank refuses to permit the withdrawal of funds*
24 *by the Treasurer or any other authorized state officer or*
25 *employee.*

26 SEC. 5. *Section 16612 of the Government Code is*
27 *amended to read:*

28 16612. The following securities may be received as
29 security for deposits:

30 (a) Bonds, notes, or other obligations of the United
31 States, or those for which the faith and credit of the
32 United States are pledged for the payment of principal
33 and interest, including the guaranteed portions of small
34 business administration loans, so long as such loans are
35 obligations for which the faith and credit of the United
36 States are pledged for the payment of principal and
37 interest.

38 (b) Notes or bonds or any obligations of a local public
39 agency (as defined in the United States Housing Act of
40 1949 (42 U.S.C. Sec. 1452 et seq.)) or any obligations of a

1 public housing agency (as defined in the United States
2 Housing Act of 1937) for which the faith and credit of the
3 United States are pledged for the payment of principal
4 and interest.

5 (c) Bonds of this state or of any county, city, town,
6 metropolitan water district, municipal utility district,
7 municipal water district, bridge and highway district,
8 flood control district, school district, water district, water
9 conservation district or irrigation district within this state,
10 and, in addition, revenue on tax anticipation notes, and
11 revenue bonds payable solely out of the revenues from a
12 revenue-producing property owned, controlled or
13 operated by this state, or such local agency or district, or
14 by a department, board, agency, or authority thereof.

15 (d) Registered warrants of this state.

16 (e) Bonds, consolidated bonds, collateral trust
17 debentures, consolidated debentures, or other
18 obligations issued by the United States Postal Service,
19 federal land banks or federal intermediate credit banks
20 established under the Federal Farm Loan Act, as
21 amended, debentures and consolidated debentures
22 issued by the Central Bank for Cooperatives and banks for
23 cooperatives established under the Farm Credit Act of
24 1933, as amended, consolidated obligations of the Federal
25 Home Loan Banks established under the Federal Home
26 Loan Bank Act, bonds, debentures and other obligations
27 of the Federal National Mortgage Association and of the
28 Government National Mortgage Association established
29 under the National Housing Act as amended, in the bonds
30 of any federal home loan bank established under said act,
31 bonds, debentures, and other obligations of the Federal
32 Home Loan Mortgage Corporation established under the
33 Emergency Home Finance Act of 1970, and in bonds,
34 notes, and other obligations issued by the Tennessee
35 Valley Authority under the Tennessee Valley Authority
36 Act, as amended.

37 (f) Bonds and notes of the California Housing Finance
38 Agency issued pursuant to Chapter 7 (commencing with
39 Section 41700) of Part 3 of Division 31 of the Health and
40 Safety Code.

1 (g) Promissory notes secured by first mortgages and
2 first trust deeds upon residential real property located in
3 California, provided that:

4 (1) Notwithstanding Section 16611, the promissory
5 notes shall at all times be in an amount in value at least 50
6 percent in excess of the amount deposited with the
7 savings and loan association;

8 (2) The State Treasurer issues regulations, establishes
9 procedures for determining the value of the promissory
10 notes and develops standards necessary to protect the
11 security of the deposits so collateralized;

12 (3) The depository may exercise, enforce, or waive any
13 right or power granted to it by promissory note,
14 mortgage, or deed of trust; and

15 (4) The following may not be used as security for
16 deposits:

17 (i) Any promissory note on which any payment is
18 more than 90 days past due,

19 (ii) Any promissory note secured by a mortgage or
20 deed of trust as to which there is a lien prior to the
21 mortgage or deed of trust, or

22 (iii) Any promissory note secured by a mortgage or
23 deed of trust as to which a notice of default has been
24 recorded pursuant to Section 2924 of the Civil Code or an
25 action has been commenced pursuant to Section 725a of
26 the Code of Civil Procedure.

27 (h) Bonds issued by the State of Israel.

28 (i) *Letters of credit issued by the Federal Home Loan*
29 *Bank of San Francisco, which shall be in the form and shall*
30 *contain provisions as the Treasurer may prescribe, and*
31 *shall include the following terms:*

32 (1) *The Treasurer shall be the beneficiary of the letter*
33 *of credit.*

34 (2) *The letter of credit shall be clean and irrevocable,*
35 *and shall provide that the Treasurer may draw upon it up*
36 *to the total amount in the event of the failure of the*
37 *savings and loan association or credit union or if the*
38 *savings and loan association or credit union refuses to*
39 *permit the withdrawal of funds by the Treasurer or any*
40 *other authorized state officer or employee.*

1 *SEC. 6. Section 44559.1 of the Health and Safety Code*
2 *is amended to read:*

3 44559.1. As used in this article, unless the context
4 requires otherwise:

5 (a) “Authority” means the California Pollution
6 Control Financing Authority.

7 (b) “California Capital Access Fund” means a fund
8 created within the authority to be used for purposes of the
9 program.

10 (c) “Executive director” means the Executive
11 Director of the California Pollution Control Financing
12 Authority.

13 (d) “Financial institution” means a federal or
14 state-chartered bank, savings association, credit union,
15 not-for-profit community development financial
16 institution certified under Part 1805 (commencing with
17 Section 1805.100) of Chapter XVIII of Title 12 of the Code
18 of Federal Regulations, or a consortium of these entities.
19 A consortium of those entities may include a nonfinancial
20 corporation, if the percentage of capitalization by all
21 nonfinancial corporations in the consortium does not
22 exceed 49 percent. *“Financial institution” also includes a*
23 *lending institution that has executed a participation*
24 *agreement with the Small Business Administration under*
25 *the guaranteed loan program pursuant to Part 120*
26 *(commencing with Section 120.1) of Chapter I of Title 13*
27 *of the Code of Federal Regulations and meets the*
28 *requirements of Section 120.410 of Chapter I of Title 13*
29 *of the Code of Federal Regulations, and a Small Business*
30 *Investment Company licensed pursuant to Part 107*
31 *(commencing with Section 107.20) of Chapter I of Title*
32 *13 of the Code of Federal Regulations. A financial*
33 *institution described in this subdivision shall be domiciled*
34 *or have its principal office in the State of California.*

35 (e) “Loss reserve account” means an account in the
36 State Treasury or any financial institution that is
37 established and maintained by the authority for the
38 benefit of a financial institution participating in the
39 Capital Access Loan Program established pursuant to this
40 article for the purpose of the following:

1 (1) Depositing all required fees paid by the
2 participating financial institution and the qualified
3 business.

4 (2) Depositing contributions made by the state and, if
5 applicable, the federal government or other sources.

6 (3) Covering losses on enrolled qualified loans
7 sustained by the participating financial institution by
8 disbursing funds accumulated in the loss reserve account.

9 (f) “Participating financial institution” means a
10 financial institution that has been approved by the
11 authority to enroll qualified loans in the program and has
12 agreed to all terms and conditions set forth in this article
13 and as may be required by any applicable federal law
14 providing matching funding.

15 (g) “Passive real estate ownership” means ownership
16 of real estate for the purpose of deriving income from
17 speculation, trade, or rental, but does not include any of
18 the following:

19 (1) The ownership of that portion of real estate being
20 used or intended to be used for the operation of the
21 business of the owner of the real estate.

22 (2) The ownership of real estate for the purpose of
23 construction or renovation, until the completion of the
24 construction or renovation phase.

25 (h) “Program” means the Capital Access Loan
26 Program created pursuant to this article.

27 (i) “Qualified business” means a small business
28 concern that meets both of the following criteria:

29 (1) It is a corporation, partnership, cooperative, or
30 other entity, whether that entity is a nonprofit entity or
31 an entity established for profit, that is authorized to
32 conduct business in the state.

33 (2) It has its primary business location within the
34 boundaries of the state.

35 (j) (1) “Qualified loan” means a loan or a portion of
36 a loan made by a participating financial institution to a
37 qualified business for any business activity that has its
38 primary economic effect in California. A qualified loan
39 may be made in the form of a line of credit, in which case
40 the participating financial institution shall specify the

1 amount of the line of credit to be covered under the
2 program, which may be equal to the maximum
3 commitment under the line of credit or an amount that
4 is less than that maximum commitment. A qualified loan
5 made under the program may be made with the interest
6 rates, fees, and other terms and conditions agreed upon
7 by the participating financial institution and the
8 borrower.

9 (2) “Qualified loan” does not include any of the
10 following:

11 (A) A loan for the construction or purchase of
12 residential housing.

13 (B) A loan to finance passive real estate ownership.

14 (C) A loan for the refinancing of an existing loan when
15 and to the extent that the outstanding balance is not
16 increased.

17 (D) A loan, the proceeds of which will be used in any
18 manner that could cause the interest on any bonds
19 previously issued by the authority to become subject to
20 federal income tax.

21 (k) “Severely affected community” means any area
22 classified as an enterprise zone pursuant to the Enterprise
23 Zone Act (Chapter 12.8 (commencing with Section 7070)
24 of Division 7 of Title 1 of the Government Code), any
25 area, as designated by the executive director, contiguous
26 to the boundaries of a military base designated for closure
27 pursuant to Section 2687 of Title 10 of the United States
28 Code, as amended, and any other comparable
29 economically distressed geographic area so designated by
30 the executive director from time to time.

31 (l) “Small Business Assistance Fund” means a fund
32 created within the authority that may only be used to pay
33 the authority’s contribution to a loss reserve account for
34 a qualified small business that has operations that affect
35 the environment.

36 (m) “Small business concern” has the same meaning
37 as in Section 632 of Title 15 of the United States Code, or
38 as otherwise provided in regulations of the authority.

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